

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CRIMINAL NO. 1:09CR23

UNITED STATES OF AMERICA )  
                               )  
                               )  
VS.                           )                           ORDER  
                               )  
                               )  
KENNETH LEE GARDNER     )  
                               )  
\_\_\_\_\_

**THIS MATTER** is before the Court on Defendant's *pro se* appeal of  
the Magistrate Judge's oral order denying bond and ordering him detained  
pending plea/trial.

Because the Defendant is currently represented by counsel, his *pro  
se* motions will be summarily denied. ***United States v. D'Amario, 2008  
WL 624768 at \*1, 2008 U.S. App. LEXIS 5079 at \*4 (3d Cir. 2008)***  
**(holding that district courts are not obligated to consider *pro se*  
motions from a defendant who is represented by counsel because  
"[t]he Constitution does not confer a right to proceed simultaneously**

**by counsel and *pro se*").** The Defendant is instructed to communicate with the Court only through his attorney.<sup>1</sup>

**IT IS, THEREFORE, ORDERED** that Defendant's *pro se* appeal of the Magistrate Judge's detention order is hereby **DENIED**.

Signed: May 13, 2009



Lacy H. Thornburg  
United States District Judge



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<sup>1</sup> At the bond hearing held May 6, 2009, Defendant was admonished by the Magistrate Judge to refrain from filing frivolous *pro se* motions and to bring matters to the Court's attention only through his attorney.